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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,960	02/16/2001	Yilin Zhao	CS90038	2853

Motorola, Inc.
Intellectual Property Dept. (RKB)
600 North US Highway 45, AN475
Libertyville, IL 60048

EXAMINER

FERGUSON, KEITH

ART UNIT	PAPER NUMBER
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2618

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Technology Center 2600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/785,960
Filing Date: February 16, 2001
Appellant(s): ZHAO ET AL.

Roland K. Bowler
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 20, 2007
appealing from the Office action mailed September 5, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 16-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 16 addresses a data structure signal stored on a computer readable for transmission on a wireless carrier signal (i.e. an ephemeris data issue identifier with two fields). A data structure modulate on a wireless carrier signal is considered functional descriptive material (i.e. the transmission to the mobile station on a modulate carrier signal is not sufficient post processing activity since it has not established a new use of a known process).

(10) Response to Argument

Argument: Appellant alleges that claim 16 does not cover data modulated on a wireless carrier signal. Claim 16 was amended to recite an "... ephemeris data issue identifier stored on a computer-readable medium...", and there is no known proscription in patent law or jurisprudence against specifying a field of use in a claim covering a data structure on a readable medium.

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Explanation: Claim 16 recites "a first field with satellite identifier; and a second field with an ephemeris sequence number. A first field with satellite identifier; and a second field with an ephemeris sequence number" are considered functional descriptive material. The preamble is not given patentable weight because the body of the claim does not refer to the computer readable medium, but only refers to the "identifier" (a first field and a second field). Therefore, this claimed "identifier" does not fall in one of the four enumerated statutory categories of patent subject matter recited in 35 U.S.C 101 (i.e., process, machine, manufacture, or composition of matter) (MPEP, Chapter 2106, section IV, part B).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Keith Ferguson

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June 20, 2007

KEITH FERGUSON
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